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ON MEDICO-PSYCHOLOGICAL EVIDENCE

AND THE

PLEA OF INSANITY IN COURTS OF LAW.

Being portion of an introductory lecture to a course on Mental Diseases, with clinical instruction, delivered in connection with the Royal Infirmary School of Medicine. *By* ALEXANDER ROBERTSON, M.D., F.F.P.S.G., *Physician and Medical Superintendent, Town's Hospital and Asylum, Glasgow.*

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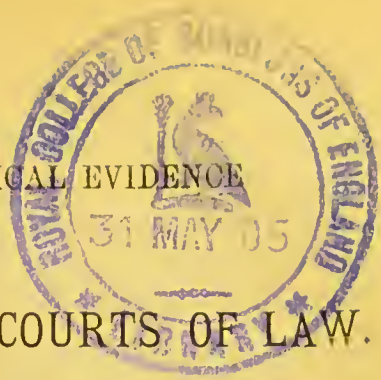

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GENTLEMEN, in the remaining portion of this lecture I shall briefly direct your attention to two important subjects relating to mental diseases, namely, medico-psychological evidence and the plea of insanity in courts of law. These subjects, are, however, so wide in their bearings that it would require several lectures to discuss them as fully as would be desirable. My remarks will consequently be restricted to some of the leading points involved in their consideration, and even these will be of a more general nature than I could wish; but should there be opportunity in the course of the session, I may return to the questions at present passed over, or only slightly considered.

It must be admitted that medical evidence in cases where unsoundness of mind is pled, whether these be of a civil or a criminal nature, is sometimes unsatisfactory, and does not carry that weight which might have been reasonably expected, seeing that the question involved is often simply the presence or absence of disease. A little consideration will, however, show that this fact need scarcely excite much surprise. In the first place, though it be true that the problem pertains to disease, the disease is that of the mind, and is not limited to bodily ailment or injury. In the latter case, the medical witness has only to speak to matters of fact—to describe, for instance, the extent and direction of a wound, and whether it might cause death; or should the case be one

of poisoning, to state the results obtained by the application of certain well-known tests. On the other hand, the medico-psychologist has to trace courses of thought to their origin—it may be in some deep underlying morbid feeling; to unravel the motives of action; to consider whether certain action has been voluntary on the part of the agent, or if, for the time being, he has been the victim of blind resistless impulse; to detect delusion, perhaps carefully concealed; to guard against being imposed on by feigned insanity; and, having arrived at a conclusion, after careful inquiry into these and other points, he has to state not only his opinion, but also the grounds on which it is based, in the witness-box. Obviously evidence of this kind must often be essentially difficult in itself, and will present abundant opportunity for the exercise of the forensic skill of astute counsel. Nor does the training or habits of thought of the medical witness prepare him for contending on equal terms with the advocate at the bar. The former, in the investigation of disease, searches for facts, considers the import of symptoms, in short, tries, as it were, to find out the truth, and thus cultivates the judicial faculty; while the latter, in the interest of the side which he espouses, heeds not the real merits of the case, but, on the contrary, seeks to damage or destroy any evidence that tells against it, and so not unfrequently endeavours to mystify or confuse the psychological witness in cross-examination. In relation to this point, I desire to express my opinion that in courses of medical jurisprudence it would be an advantage to pay particular attention to the giving of evidence: that, for instance, imaginary medico-legal trials should, so far as the medical evidence is concerned, be carried out in the presence of the students, some of them being placed, as it were, in the witness-box, and examined accordingly. If this were done, the knowledge so acquired might perhaps save the practitioner from some unpleasant experiences, in at least the early part of his professional career.

But the medical witness is also not unfrequently placed at a grave disadvantage in criminal trials through his in-

complete acquaintance with facts bearing on the mental condition of the panel. Thus, should he be a witness for the Crown, he may learn for the first time, when in the box, by the statements of the counsel for the defence, circumstances which seem to indicate insanity in the prisoner at some period of his life, and be asked to give an opinion regarding them, and their bearing on his mental state at the time the crime was committed. Or, even though he may be fully aware of facts which will afterwards be brought before the jury in the evidence for the defence, he is not allowed to adduce them in support of any opinion he may give, however important their bearing on the question may seem to him, seeing that, at the time of his examination, which is usually at the close of the evidence for the prosecution, these facts have not yet been submitted in court.

Besides these causes of defect in medical evidence, it is in some cases obviously partially due to the imperfect acquaintance of the witnesses with the forms of insanity, and even sometimes with the meaning of the terms which are used in their definition. This again is traceable to the prevailing neglect of the study of mental disorders, to which I have already alluded.

Many plans have been submitted with a view to prevent the unseemly collisions of medical evidence in courts of law; but more especially in order properly to obtain the advantage of the light which skilled medical opinion is fitted to throw on cases where the plea of insanity is advanced. These I shall not now stay to discuss, but shall content myself with little more than stating the one which seems to me the most likely, if adopted, to yield satisfactory results. It is this—Let the crown appoint a committee of three medical men skilled in mental disease, in whom they have confidence, and who shall hold their appointments independently of either the prosecution or defence. It shall be the duty of this committee to examine the prisoner as often as may seem necessary, and to report respecting his mental condition, in any case where it is intended to plead insanity in his behalf at the trial. And, with a view to the completeness of their

report, it would be proper to require both sides to submit to this committee the evidence which they intend to lead either in support of this plea or against it. After reading their reports in court, the medical men might, if thought desirable, be put into the witness-box, and be questioned respecting it by the opposite counsel. It should not be competent for either side to bring forward any other skilled witnesses merely to express a professional opinion in the case. The objections to this plan are, first, that it apparently places some restriction on the freedom which the defence at present enjoys, in adducing any evidence whatever, which may be supposed to favour the accused; second, that the committee, holding their appointments from the Crown, might be fancied to have a bias, perhaps insensibly, towards supporting the view of the prosecution; third and mainly, that this committee would, to a large extent, usurp the place of the jury, as the finding in their report would unduly influence the result of the trial. While by no means seeking to estimate lightly such objections, I would simply express my conviction that the advantages of a committee of this kind would distinctly outweigh the disadvantages attending its action.

But whatever opinion may be formed of this or any other plan, there is little prospect at present of any change in the existing practice. I shall therefore, before closing this portion of my subject, make a few observations on the giving of evidence and also on the examination of the accused; it being understood that my remarks have special reference to criminal cases. It is necessary to have, if possible, three interviews with the prisoner before the trial, and in some cases more may be required. The first one should be at least for an hour, and the second should not be much shorter. I have seen a medical man's evidence much damaged by the admission he was obliged to make in the witness-box, in answer to a question from the counsel for the defence, that he had only spent about ten minutes in examining the panel. I have found it most satisfactory to conduct the examination when no one else than the prisoner was present; he is then

more ready to express himself freely and unreservedly than when any of the officials or another medical practitioner is in the room. Perhaps, however, the agent on the side with which you are associated may require you to make one examination conjointly with other medical witnesses on the same side, so as to insure as great a uniformity of opinion as possible. In any doubtful case it is desirable to visit the prisoner unexpectedly, late in the evening or at night. It sometimes happens that insanity, which can scarcely be detected during the day, is quite obvious at night. A female patient at present under my care is a good illustration of this condition. During the day she is usually calm and nearly rational, but after about nine or ten at night she becomes excited and talks aloud, maintaining a conversation with herself, just as if some one were beside her, though there is no one there. I have often stood outside her bedroom and listened to these conversations. Questions are put and answers given in two different tones of voice, the one being deep and masculine, the other feminine but much shriller than her own natural voice. Both voices always maintain their respective individualities in this nightly drama. In alcoholic insanity this nocturnal exacerbation is occasionally very marked. The hallucinations of sight and hearing which are so characteristic of it may scarcely, and even not at all, trouble the patient during the day, but when night comes, and particularly if he be alone, they may assume a most vivid reality and prompt to dangerous action, either suicidal or homicidal, or both.

In almost all cases notes should be taken of the exact replies of the prisoner to your questions at the time of examination; it may be important to quote his own language in the report of the case you may be asked to draw out, or at the trial. Your inquiries should extend over his whole career and include what we may call the medical history of the family to which he belongs, with a view to ascertain whether there exists a hereditary tendency to insanity or other of the neuroses. Particular search should be made after epilepsy, as sometimes the fits occur at night, or in the

form of *petit mal;* and criminal acts have been committed by the sufferer during the brief mental derangement, which occasionally follows or precedes any form of the disease, or is substitutionary of the convulsive fit. The physical signs of general paralysis should also be looked for, as sometimes in the early stage of that disease, and owing to it, serious crimes are committed, and the medical witness may, through his knowledge of the import of a slight tremor of the upper lip, a difficulty in the articulation of certain words, and an inequality of the pupils, be able to state confidently in court, as was done lately at a trial in England, that the probably strong and vigorous looking man at the bar is labouring under an incurable disease from which he will die at no very distant date.

In the examination of the prisoner it is important to bear in mind that he must not be asked if he has committed the crime of which he is accused. Medical men have in some cases obtained admissions of guilt in the course of their examinations, and have been obliged to reveal them in the witness-box; for the medical witness is in no way privileged more than others. This has brought upon him the censure of the court for having made such inquiries. Should the crime be murder, you may, and, I think, ought to inquire respecting the prisoner's views on the lawfulness of killing in the abstract, but must avoid asking if he was the perpetrator of the deed in question.

Every legitimate effort should be made to obtain full information of all the facts, and particularly those likely to be submitted at the trial, which may throw light on the mental condition of the prisoner previous to the criminal act. There is usually no difficulty whatever in obtaining this information, so far as it favours the side on which you are engaged, but it is not always easy to ascertain the facts which support the views of the opposite side. Sometimes this is due to the agent on your own side not deeming it prudent to communicate important information which tells against *his* view of the crime to a medical man whose opinion on the case has not yet been expressed, and some-

times to his not being himself fully aware of the evidence which the opposition is in possession of, even though the agents on the one side are at liberty to precognosce the witnesses on the other side. Speaking for myself I cannot say that I have had much to complain of in respect of this in the course of my experience. I have usually been a witness for the Crown, and have generally found the Procurator-Fiscal ready to allow me to peruse the precognitions of witnesses whose statements had reference to the mental condition of the prisoner, even though these might be favourable to the defence.

As soon as you have arrived at a conclusion respecting the alleged insanity of the accused, you will be expected to apprise the agent respecting its nature. I am in the habit of expressing this opinion briefly in a document by itself; but along with it, in a separate paper, I send a statement detailing and explaining the grounds on which the opinion is based. I need scarcely say that whatever side you may happen to be engaged on, your judgment must be unbiassed. A medical witness must not be a partizan; his duty is simply to ascertain the truth respecting the medical question submitted to him, without regard to the result. Should your conclusion be opposed to the views or theory of the agent who has employed you, probably you may not be called as a witness, or possibly your evidence may then be secured by the opposite side, if they learn the nature of your finding. This, though you may regret it, cannot be avoided; you have the satisfaction of thinking that you acted in accordance with your conscientious convictions.

In the witness-box you should use, as much as possible, plain, non-technical language, remembering that the jury, as a whole at least, cannot be expected to know the meaning of the scientific terms relating to insanity. Your replies should, as a rule, be brief, and ought generally to be strictly confined to the points in question. I do not say that they ought invariably to be so, as it sometimes happens that questions are carefully framed so as to bring out only one side of your opinion, and should the counsel on the other

side in his examination not advert to the subject imperfectly elucidated, or possibly not examine you at all, serious injustice may be done to the case. This once happened in my experience: the advocate for the defence did not put a single question to me, and, so imperfectly did I feel had my opinion been brought out in the examination-in-chief, that I deemed it requisite to ask to be again placed in the box that I might have an opportunity of fully expressing my views. This request was granted. It is necessary then to be on your guard lest through the skill of counsel on the one side, and perhaps owing to the want of skill of counsel on the other side, you should be prevented from doing full justice to the case.

You need scarcely expect to pass through the ordeal of a cross-examination successfully unless, besides knowing thoroughly the case with which you are engaged, you are well acquainted with the *legal* meaning of the ordinary terms used in reference to the insane. In illustration, I may mention a case that occurred a good many years since in Glasgow. The medical witness was asked if he considered the panel to be of sound mind. That gentleman, who I think was of opinion that the accused was somewhat imbecile, replied, "No, not altogether." Counsel then said, "You consider, in fact, that there is unsoundness of mind?" to which the witness replied, "Yes." The next question was, "Do you think he is insane?" Answer—"No, not insane." The counsel saw his advantage and immediately said, "You have told us that there is unsoundness of mind but that yet he is not insane, will you now explain: what is the difference between insanity and unsoundness of mind?" The witness, who did not seem fully aware that in Scottish law they are synonymous terms, attempted an explanation, but became confused and broke down so thoroughly that he was under the necessity of leaving the box.

In closing this part of my subject, I would only further remark that you need not be at all surprised though your evidence should be not only imperfectly but even erroneously reported in the newspapers. That is by no means uncom-

mon, and medical men are occasionally subjected to a good deal of injustice and annoyance through incorrect reports of their professional evidence.

I shall now make a few remarks on the plea of insanity. In criminal cases—and it is to them again that special reference will be made—this plea may be advanced; first, in bar of trial; second, in bar of sentence; third, in bar of punishment. In capital charges it is not readily admitted in bar of trial; for, unless the prisoner be very obviously insane—maniacal or distinctly demented—and to such an extent that he cannot form a conception of the nature of the charge, the case usually goes for trial. The grounds on which decisions have been arrived at when this plea has been the defence have varied greatly at different times. In fact, in no class of criminal charges has "the glorious uncertainty of the law" been more strikingly manifested. Cases seemingly parallel, so far as the evidences of mental unsoundness or of the responsibility of the agents for their acts were concerned, have had opposite results: in some the panels have been found guilty, and executed; in others the plea has been sustained, the sentence being confinement in a lunatic asylum during Her Majesty's pleasure,—this being usually, but not always, equivalent to confinement for life. Many cases might be quoted in proof of this statement, but time will not permit, and I must content myself with referring you to the records of medico-legal trials in works on jurisprudence. The discrepant conclusions in these cases have undoubtedly been largely due to the difference in the tests of insanity propounded by the various judges in their charges to the juries. But while there has often been this striking want of harmony among judicial deliverances, it is evident, when a general survey is made of these opinions from the bench, there has been, upon the whole, and especially during late years, a marked change in their character. There is now—it is satisfactory to be able to say—greater harmony between them and the facts of psychology than formerly. This will appear by a few illustrations. In 1723, Arnold, a lunatic, was tried for

shooting at Lord Onslow. The presiding judge, in his charge to the jury, said: "It is not every kind of frantie humour, or something unaecountable in a man's aetions that points him out to be sueh a madman as is exempted from punishment; it must be that a man is totally deprived of his understanding and memory, and doth not know what he is doing, no more than an infant, than a brute or a wild beast; sueh a one is never the object of punishment." You will observe that at that time nothing but a total deprivation of reason would save any one from suffering the full penalty for criminal aets. Partial insanity in any of its varied forms was no palliation, however clearly it might be evident that the offenee was the direet produet of delusion, and as much the offspring of disease as though it were the action of a raving maniae. Coming down to the year 1800, we find that in the case of Hadfield, who fired at the King in the Drury Lane Theatre, this doetrine, though urged by the Attorney-General, was not adopted, and the panel was aequitted on the ground of insanity—the act having been due to delusion, though the derangement was only partial. This was a great advancement on the opinions which ruled in Arnold's case, but it does not appear to have been general or, at all events, lasting; for we find that in 1812 Bellingham was tried, convieted, and executed for the murder of Mr. Spencer Percival, though the crime was the fruit of insane delusion. The criterion of responsibility submitted to the jury by Chief Justice Mansfield in this ease was the capability of distinguishing between right and wrong, not, let it be observed, in reference to the particular aet, but in general. Had the test been applied to the charge on whieh the prisoner was being tried, he would not have been condemned, as assuredly the delusion which prompted the act rendered him quite unable to distinguish properly between right and wrong in regard to it. The next ease to which I shall refer was one that eaused mueh exeitement throughout the country, and was the means of strongly directing publie attention to the condition of the law respeeting insanity associated with crime. It was that of M'Naughtan, who, in

1843, shot Mr. Drummond in the lobby of the House of Commons, mistaking him for the late Sir Robert Peel. M'Naughtan laboured under a monomania of suspicion: he fancied that he was being dogged on the streets, and that different persons, of whom Sir Robert Peel was one, had conspired to ruin his character. This had instigated the murderous attempt which resulted fatally. Notwithstanding the fact that he was not obviously insane, and had transacted business a short time before the deed, he was acquitted on the ground of insanity. The House of Lords participated in the feeling of alarm which this decision gave rise to throughout the country, and thereupon proposed to the English judges a series of queries relating to responsibility and unsoundness of mind. Their replies have been considered to embody the law on the subject, and since then have been the basis on which the great majority of cases have been decided, where the plea of insanity was advanced. Briefly put, these answers state that it ought to be proved that at the time he committed the alleged crime the prisoner was not conscious of right or wrong, before the plea is allowed. But this is qualified by the somewhat ambiguous observation that if the delusion under which he laboured were only partial, he was equally liable with a person of sane mind; and further, that if he laboured under the idea that he was redressing a delusive grievance, he was still liable to punishment. It will be observed, that a consciousness of right and wrong at the time of the act is stated to be the test of responsibility, and this is probably a sufficient criterion in the great majority of cases if it be strictly applied, for it covers not only those where the accused are totally bereft of reason, but also those others where an insane delusion has prompted the criminal act, as no one so instigated can possibly have a proper conception of right and wrong. In this legal dictum there is a marked change when compared with the opinions to which I have referred; for even in the last and most advanced of them, as was shown, the test was the power of distinguishing right from wrong in the abstract, without reference to the

crime with which the prisoner is accused—whether, for instance, in answer to questions, the panel could tell that theft and murder were wrong acts, punishable by the law, and, if he could, holding that this knowledge established his guilt, without giving any weight to the consideration that at the time of the criminal act he was actuated by delusion or impulse, the result of disease.

But although these celebrated "Replies" are still considered the standard according to which the decisions in medico-psychological trials should be determined, taking them as a whole, and considering the one reply as modified by the others, they do not fully represent the state of our information respecting the manifestations of diseased mind. This fact would seem to be understood in some degree by the general public; at all events their moral sense has revolted in some cases from deciding in accordance with the principles of the "Replies." Thus in the trial of a man named Bramfield, who killed a fellow-labourer about four years ago in the North of England, the jury returned a verdict of insanity in opposition to Mr Justice Brett's charge, owing to their belief that, though the prisoner not only knew right from wrong, but was intelligent, free from apparent delusion, and could earn his livelihood, his mind had been weakened by a previous attack of insanity, and the act itself had been due to homicidal impulse. The result of this trial appeared to give very general satisfaction.

But in some recent trials the bench itself has not been ruled by these criteria of responsibility. In illustration I shall refer briefly to the cases of Macklin and Barr, who were tried on the charge of murder at the same circuit in this city in May of last year; the presiding judge being the Lord Justice Clerk. As I was one of the medical witnesses in Barr's case, I think it well to say at the outset, with the view of preventing any possible misapprehension, that in my judgment the verdict and punishment were just and merited, and that any other conclusion would have involved a sad miscarriage of justice. The observations of Lord Moncrieff on the tests of insanity and responsibility in his

two charges to the juries are of great importance, and seem to me distinctly to mark progress in the legal conception of mental unsoundness. The following quotation is from the newspaper report of his lordship's address in Macklin's case :—"What were the indications from which unsoundness of mind may be inferred? He could lay down no general test which could be applied to solve such a question. At one time lawyers were apt to avoid all difficulty by inquiring whether the prisoner knew right from wrong; and as, in point of fact, except in acute mania or idiocy, there are very few lunatics who do not know right from wrong, in the sense of being capable of forming and even acting on the distinction, much unreasoning inhumanity had been the result of this unscientific maxim. He would suggest to them what he thought a far safer and a more constitutional and a more reasonable ground. Soundness or unsoundness of mind was a fact which had to be judged of not as a question of law, or of science, but on the ordinary rules which one applied in daily life. If it turned out that a man was able to conduct himself with propriety in the ordinary relations of life, and was not excluded from the confidence of his fellow-men by reason of distrust of his sanity, they had advanced not the whole of the journey, but nine-tenths of it towards their conclusion." And at an after part: "He had said that they had advanced nine-tenths on the journey towards a solution, but there was a further step, on which the difficulty and the importance of the case rested—if this man laboured under an insane delusion." His lordship's observations in Barr's case were much to the same effect. "I shall now state," he said, "what I think are the only propositions necessary for me to state in order to guide your judgment in this matter; and it might almost be said of them, as I laid down in the case yesterday, that the question of sanity or insanity, soundness or unsoundness of mind, is simply a question of fact, to be judged of by you upon ordinary rules, and the intercourse between men and men in daily life." And further, "The true question to consider is whether this man's mind was diseased."

There is here a distinct admission that the eriteria of responsibility by which the beneh "at one time" instructed juries was erroneous, and it is certainly satisfactory to find this so frankly stated. We fear, however, that the tests proposed by his lordship in plaee of the discarded ones will be found insuffieient in some of the most important eases that eome before eourts of justiee. Thus, in M'Naughtan's ease already referred to, it was proved, as I have said, that he had transacted business shortly before eommitting the eriminal aet. Business eapaeity, therefore, fails here as a test, though the supplementary eriterion delusion is applicable. But take the following case whieh was under my eare a number of years sinee:—An affeetionate mother, redueed by nursing but still able to attend to her domestie duties, was dismayed to find that a strong temptation to kill her infant, whom she tenderly loved, had arisen in her mind, and fearing that she might give way to the terrible prompting, she eonsented to enter the asylum. There was a degree of melancholia present, but no delusion was apparent. Her general health rapidly improved, and after a few weeks' residenee she returned to her family, the homicidal disposition having passed away. If the impulse had overeome her feeble powers of resistanee and she had killed her child, neither of the tests referred to would have saved her from suffering the extreme penalty of the law, as until her entranee into the asylum she had been engaged as usual in household work and never manifested any delusion. At the same time, had she been hanged, there would eertainly have been another instanee of "unreasoning inhumanity." I might quote many more equally striking examples of the homicidal impulse from medieo-legal works, but time will not permit, and besides I prefer drawing on my own experience for illustrations. A patient now under my eare has frequently an almost overpowering tendency to destroy anything near her—it matters not what; not to kill, fortunately; though oeeasionally it is to eommit suieide. She once said to me, "I feel that if it were possible I could tear the whole building down;" and repeatedly, when busy at her work,

"I'm just doing this to keep me from breaking the windows." She has always been able to master her morbid impulses while in the City Asylum, but many years ago, when in another institution, they proved too strong for her, and in her maniacal fury she broke about fifty panes of glass, besides a large number of dishes, in the course of a few minutes. Some years previous to that outbreak she had an attack of acute mania, but her recovery, so far as concerned the intellect, seemed perfect. There exists in her a strong hereditary tendency to insanity, and a large number of relatives are or were affected with the same terrible malady. During the many years she has been under my care, I have found her an active, industrious, and intelligent woman, constantly free from delusion or other evidence of distinct intellectual derangement. Now, had this patient been at large when the morbid impulse overpowered her, neither of the tests would have shielded her from punishment. They are equally defective in another important class of cases, the character of which will be understood by the two following illustrations:—About four years ago a male inmate of the City Poorhouse, nearly 60 years of age, who had been subject to epileptic seizures for many years, at intervals of four or five weeks, one day in a large ward containing many patients, when lying in bed owing to some temporary ailment, suddenly began to swear aloud without the slightest provocation, then cried for a knife "to stick some of them," and ultimately sprang at the patient next him. With some difficulty he was restrained, and I was sent for. In about a quarter of an hour after the commencement of the seizure I reached the ward and found him rather confused in mind, though he answered all my questions relevantly and sensibly. He was very much surprised when told how he had acted, and assured me that he had no recollection whatever of the circumstances. Another patient, who is subject to epileptic vertigo, on two or three occasions while under it has walked automatically down the stair and along the street for thirty or forty yards, performing different acts, though quite unconscious all the time; these attacks lasting from two to three minutes.

Throughout his illness he has continued to attend to his business, and has always been entirely free from delusion. There are a good many instances of this kind on record: Dr Joseph Coats has lately recorded two very interesting ones, and I have published a striking illustration in a recent number of the *British Medical Journal*. Now, if any of the patients were to commit a criminal act during the brief period of these attacks, it does not appear that Lord Moncrieff's tests would be applicable if, to repeat his lordship's words, "he was able to conduct himself with propriety in the ordinary relations of life," and if he "did not labour under insane delusion." Now, in many of the cases the sufferers do conduct themselves with propriety, follow their occupations, and are also free from delusion; there is simply a short suspension of consciousness, through which, however, they are entirely irresponsible for their actions while it lasts.

When Lord Moncrieff said that the true question to consider was, whether the mind is diseased, and that there is no general test of mental unsoundness, he stated opinions with which the most experienced medico-psychologists will fully agree. It is, therefore, I submit, unfortunate that the bench should continue in most cases to assume that such tests do exist. It would, I think, be more correct, more in accordance with the facts of nature, to avoid laying down definite criteria, and simply to hold, unless proof can be submitted that the mind is in a state of disease, or was so at the time of the alleged crime, to which that crime may be fairly attributed, that the plea of insanity should not be sustained, and that consequently the accused is a responsible agent. What that proof should be cannot, however, be stated, as it must vary according to the distinctive features of different cases.

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